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LS 5-2750 a

4 January 1956

MEMORANDUM FOR: Chief, Finance Division

ATTENTION: Chief, Travel Section

SUBJECT:

Air Berths in Connection with Overseas Transfers

1. A memorandum from your Office dated 22 December 1955 requests a decision on the validity of a claim by [redacted] in the amount of \$75 representing three berths at \$25 each used in air travel from [redacted] to New York.

2. Your memorandum and the accompanying vouchers show that [redacted] and his dependents used berths on both the [redacted] Seattle and Seattle - New York legs of the trip. You state that for berth purposes the Travel Section has been allowing only that portion of travel from an overseas post to the first point of landing in the United States (in this specific instance, [redacted] Seattle). The claim for berth charges for the remaining portion of the travel has been disallowed [redacted] on the ground that that portion of the trip is domestic travel. The cited regulation states: "When night travel of more than six hours duration is involved in foreign travel, one standard berth shall be allowed for each traveler..."

3. It is the opinion of this Office that the stated reason for disallowing berth charges for the Seattle - New York portion of the trip is incorrect under the applicable law. Travel to or from a foreign point by employees of this Agency is foreign travel in its entirety regardless of the fact that a portion of the travel is necessarily over the United States. All travel and transportation allowances for such trips are figured on the basis of the trip being foreign travel and no part of it should be considered domestic travel for the purposes of such allowances.

4. Although we do not consider the stated reasons for disallowance in this case to be correct, we are of the opinion that a decision as to whether or not or when a berth will be allowed is an administrative one. The law and regulations leave us a great deal of leeway, and it is up to the Agency

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to establish an equitable policy on this matter within the broad confines of our legal authority. In reading [redacted] itinerary as set forth in the travel voucher, we note that virtually all of the trip took place during the night, when figured on the basis of local times. However, in point of fact, it was a continuous trip of approximately twenty-six hours, about half of which was night travel from the point of view of the traveler or based upon [redacted] time, on which the traveler started his trip. On this basis we do not think it could be considered unreasonable to say that the traveler had only one night of travel and that, therefore, he is entitled to berths only for that one night. However, our legal authority is broad enough that we need not confine the berth privilege so narrowly and, if it appears equitable as a matter of policy, we could certainly authorize two berths per traveler for a trip of this length.

5. In conclusion, it is the opinion of this Office that the traveler may not be denied reimbursement for a berth on any portion of a trip to or from a foreign point on the ground that that portion of the trip is domestic travel. The whole trip must be considered as foreign travel. On the other hand, the decision as to whether or not one or more berths will be allowed for a traveler on a particular trip is an administrative one and should be decided on the basis of a standard policy which seems most equitable to the Government and to the travelers.

[redacted]
Office of General Counsel

OGC:JDM:mz

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